

AMENDED IN ASSEMBLY JANUARY 14, 2016

AMENDED IN ASSEMBLY JANUARY 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 1001**

---

**Introduced by Assembly Member Maienschein**  
**(Coauthors: Assembly Members Chávez and Gallagher)**  
**(Coauthor: Senator Anderson)**

February 26, 2015

---

An act to amend Section ~~1554~~ 1558 of, and to add Sections ~~1550.1~~ and Section 1556.5 to, the Health and Safety Code, and to amend Section 10605.5 of the Welfare and Institutions Code, relating to child abuse.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1001, as amended, Maienschein. Child abuse: reporting: foster family agencies.

(1) The Child Abuse and Neglect Reporting Act requires a mandated reporter, as defined, to make a report to a specified agency whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. Under existing law, the failure to make this report is a crime. Existing law also prohibits a supervisor or administrator from impeding or inhibiting the reporting duties, provides that a person making the report shall not be subject to any sanctions for making the report, and prohibits internal procedures to facilitate reporting from requiring any employee required to make reports to disclose his or her identity to the employer.

Existing law, the California Community Care Facilities Act (the act), governs the licensing and regulation of community care facilities, as defined, including foster family agencies for children. Existing law vests responsibility for administering and enforcing laws and regulations governing those facilities in the State Department of Social Services. *Existing law authorizes the department to prohibit a person from being a member of the board of directors, an executive director, or an officer of a licensee, or a licensee from employing, or continuing the employment of, or allowing in a licensed facility or certified family home, or allowing contact with clients of a licensed facility or certified family home by, any employee, prospective employee, or person who is not a client who has committed various acts or has been denied an exemption to work or to be present in a facility or certified family home, as specified.*

~~This bill would require the department to deny an application for, or suspend or revoke, a license pursuant to the act, upon a finding that the applicant or licensee has impeded or inhibited those mandated reporting duties, sanctioned a person making a report, or required an employee to disclose his or her identity to the employer in violation of the provisions described above governing mandated reporters. The bill would prohibit the reinstatement of a license, registration, or special permit that is suspended pursuant to this provision, as specified. The bill would also impose other related requirements on the department governing conditions of licensure.~~

*This bill would require that if the department, as a condition of licensure, requires the chief executive officer or other authorized member of the board of directors and the administrator of a foster family agency to attend an orientation give by the licensing agency that outlines the applicable rules and regulations for operation of a foster family agency, then that orientation shall include a description of policies, procedures, or practices, that violate the provisions described above governing mandated reporters. The bill would also require the department to take reasonable action, including, among other things, prohibiting a person from being a member of the board of directors, upon a finding of a violation of the provisions described above governing mandated reporters.*

(2) Existing law requires the department, in consultation with counties and labor organizations, to establish a process to receive voluntary disclosures from social workers, if a social worker has reasonable cause to believe that a policy, procedure, or practice, related to the provision

of child welfare services by a county child welfare agency, meets any of specified conditions, including that the policy, procedure, or practice endangers the health or well-being of children or is contrary to *an* existing statute or regulation. Existing law requires the department to make available to counties and labor organizations a description of the process established, and, no later than January 1, 2018, to report to the Legislature the total number of relevant disclosures received from social workers and a summary description of both the issues raised in the disclosures received and the actions taken by the department in response to the disclosures, and to post the information on the department's Internet Web site.

This bill would, effective January 1, 2018, require the department to carry out the duties imposed pursuant to these provisions with respect to voluntary disclosures from social workers employed at a foster family agency, as defined, including, but not limited to, disclosures from social workers who have reasonable cause to believe that a policy, procedure, or practice violates the provisions governing mandated reporters described in paragraph (1). The bill would require the department to make a report regarding this information, similar to the report required pursuant to existing law, no later than July 1, 2019, and to post the information on its Internet Web site.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 1550.1 is added to the Health and Safety~~  
2     ~~Code, to read:~~  
3     ~~1550.1. The department shall deny an application for, or~~  
4     ~~suspend or revoke, any license, or any special permit, certificate~~  
5     ~~of approval, or administrator certificate, issued under this chapter,~~  
6     ~~or shall deny a transfer of a license pursuant to paragraph (2) of~~  
7     ~~subdivision (e) of Section 1524, upon a finding that the applicant~~  
8     ~~or licensee has impeded or inhibited mandated reporting duties~~  
9     ~~within the meaning of subdivision (i) of Section 11166 of the Penal~~  
10    ~~Code, or sanctioned a person making a report within the meaning~~  
11    ~~of that subdivision, or required an employee to disclose his or her~~  
12    ~~identity to the employer in violation of that subdivision.~~  
13    ~~SEC. 2. Section 1554 of the Health and Safety Code is amended~~  
14    ~~to read:~~

1     ~~1554. Any license, registration, or special permit suspended~~  
2 ~~pursuant to this chapter, and any special permit revoked pursuant~~  
3 ~~to this chapter, may be reinstated pursuant to the provisions of~~  
4 ~~Section 11522 of the Government Code. This section does not~~  
5 ~~apply to a license, registration, or special permit that is suspended~~  
6 ~~or to a special permit that is revoked pursuant to Section 1550.1.~~

7     ~~SEC. 3.~~

8     ~~SECTION 1.~~ Section 1556.5 is added to the Health and Safety  
9 Code, to read:

10     1556.5. (a) If the department, as a condition of licensure,  
11 requires the chief executive officer or other authorized member of  
12 the board of directors and the administrator of a foster family  
13 agency to attend an orientation given by the licensing agency that  
14 outlines the applicable rules and ~~regulation~~ *regulations* for  
15 operation of a foster family agency, that orientation shall include,  
16 but not be limited to, a description of policies, procedures, or  
17 practices that violate paragraph (1) or (2) of subdivision (i) of  
18 Section 11166 of the Penal Code.

19     (b) If the department requires, as part of an application for  
20 licensure for a foster family agency, a written plan of operation,  
21 that plan of operation shall include a written plan establishing  
22 policies, procedures, or practices to ensure that the foster family  
23 agency does not violate paragraph (1) or (2) of subdivision (i) of  
24 Section 11166 of the Penal Code.

25     (c) For purposes of this section, a foster family agency is defined  
26 in paragraph (4) of subdivision (a) of Section 1502.

27     ~~SEC. 2.~~ *Section 1558 of the Health and Safety Code is amended*  
28 *to read:*

29     1558. (a) The department may prohibit any person from being  
30 a member of the board of directors, an executive director, or an  
31 officer of a licensee, or a licensee from employing, or continuing  
32 the employment of, or allowing in a licensed facility or certified  
33 family home, or allowing contact with clients of a licensed facility  
34 or certified family home by, any employee, prospective employee,  
35 or person who is not a client who has:

36     (1) Violated, or aided or permitted the violation by any other  
37 person of, any provisions of this chapter or of any rules or  
38 regulations promulgated under this chapter.

1 (2) Engaged in conduct that is inimical to the health, morals,  
2 welfare, or safety of either the people of this state or an individual  
3 in or receiving services from the facility or certified family home.

4 (3) Been denied an exemption to work or to be present in a  
5 facility or certified family home, when that person has been  
6 convicted of a crime as defined in Section 1522.

7 (4) Engaged in any other conduct that would constitute a basis  
8 for disciplining a licensee or certified family home.

9 (5) Engaged in acts of financial malfeasance concerning the  
10 operation of a facility or certified family home, including, but not  
11 limited to, improper use or embezzlement of client moneys and  
12 property or fraudulent appropriation for personal gain of facility  
13 moneys and property, or willful or negligent failure to provide  
14 services.

15 (b) The excluded person, the facility or certified family home,  
16 and the licensee shall be given written notice of the basis of the  
17 department's action and of the excluded person's right to an appeal.  
18 The notice shall be served either by personal service or by  
19 registered mail. Within 15 days after the department serves the  
20 notice, the excluded person may file with the department a written  
21 appeal of the exclusion order. If the excluded person fails to file  
22 a written appeal within the prescribed time, the department's action  
23 shall be final.

24 (c) (1) The department may require the immediate removal of  
25 a member of the board of directors, an executive director, or an  
26 officer of a licensee or exclusion of an employee, prospective  
27 employee, or person who is not a client from a facility or certified  
28 family home pending a final decision of the matter, when, in the  
29 opinion of the director, the action is necessary to protect residents  
30 or clients from physical or mental abuse, abandonment, or any  
31 other substantial threat to their health or safety.

32 (2) If the department requires the immediate removal of a  
33 member of the board of directors, an executive director, or an  
34 officer of a licensee or exclusion of an employee, prospective  
35 employee, or person who is not a client from a facility or certified  
36 family home, the department shall serve an order of immediate  
37 exclusion upon the excluded person that shall notify the excluded  
38 person of the basis of the department's action and of the excluded  
39 person's right to a hearing.

1 (3) Within 15 days after the department serves an order of  
2 immediate exclusion, the excluded person may file a written appeal  
3 of the exclusion with the department. The department's action  
4 shall be final if the excluded person does not appeal the exclusion  
5 within the prescribed time. The department shall do the following  
6 upon receipt of a written appeal:

7 (A) Within 30 days of receipt of the appeal, serve an accusation  
8 upon the excluded person.

9 (B) Within 60 days of receipt of a notice of defense pursuant  
10 to Section 11506 of the Government Code by the excluded person  
11 to conduct a hearing on the accusation.

12 (4) An order of immediate exclusion of the excluded person  
13 from the facility or certified family home shall remain in effect  
14 until the hearing is completed and the director has made a final  
15 determination on the merits. However, the order of immediate  
16 exclusion shall be deemed vacated if the director fails to make a  
17 final determination on the merits within 60 days after the original  
18 hearing has been completed.

19 (d) An excluded person who files a written appeal with the  
20 department pursuant to this section shall, as part of the written  
21 request, provide his or her current mailing address. The excluded  
22 person shall subsequently notify the department in writing of any  
23 change in mailing address, until the hearing process has been  
24 completed or terminated.

25 (e) Hearings held pursuant to this section shall be conducted in  
26 accordance with Chapter 5 (commencing with Section 11500) of  
27 Division 3 of Title 2 of the Government Code. The standard of  
28 proof shall be the preponderance of the evidence and the burden  
29 of proof shall be on the department.

30 (f) The department may institute or continue a disciplinary  
31 proceeding against a member of the board of directors, an executive  
32 director, or an officer of a licensee or an employee, prospective  
33 employee, or person who is not a client upon any ground provided  
34 by this section. The department may enter an order prohibiting  
35 any person from being a member of the board of directors, an  
36 executive director, or an officer of a licensee or prohibiting the  
37 excluded person's employment or presence in the facility or  
38 certified family home, or otherwise take disciplinary action against  
39 the excluded person, notwithstanding any resignation, withdrawal  
40 of employment application, or change of duties by the excluded

1 person, or any discharge, failure to hire, or reassignment of the  
2 excluded person by the licensee or that the excluded person no  
3 longer has contact with clients at the facility or certified family  
4 home.

5 (g) A licensee's or certified family home's failure to comply  
6 with the department's exclusion order after being notified of the  
7 order shall be grounds for disciplining the licensee pursuant to  
8 Section 1550.

9 (h) (1) (A) In cases where the excluded person appealed the  
10 exclusion order, the person shall be prohibited from working in  
11 any facility or being licensed to operate any facility licensed by  
12 the department or from being a certified foster parent for the  
13 remainder of the excluded person's life, unless otherwise ordered  
14 by the department.

15 (B) The excluded individual may petition for reinstatement one  
16 year after the effective date of the decision and order of the  
17 department upholding the exclusion order pursuant to Section  
18 11522 of the Government Code. The department shall provide the  
19 excluded person with a copy of Section 11522 of the Government  
20 Code with the decision and order.

21 (2) (A) In cases where the department informed the excluded  
22 person of his or her right to appeal the exclusion order and the  
23 excluded person did not appeal the exclusion order, the person  
24 shall be prohibited from working in any facility or being licensed  
25 to operate any facility licensed by the department or a certified  
26 foster parent for the remainder of the excluded person's life, unless  
27 otherwise ordered by the department.

28 (B) The excluded individual may petition for reinstatement after  
29 one year has elapsed from the date of the notification of the  
30 exclusion order pursuant to Section 11522 of the Government  
31 Code. The department shall provide the excluded person with a  
32 copy of Section 11522 of the Government Code with the exclusion  
33 order.

34 *(i) Notwithstanding paragraph (2) of subdivision (a) or*  
35 *subdivision (c) of Section 1550, the department shall take*  
36 *reasonable action, including, but not limited to, prohibiting a*  
37 *person from being a member of the board of directors, an executive*  
38 *director, or an officer of a licensee of a licensed facility or certified*  
39 *family home, or denying an application for, or suspending or*  
40 *revoking, a license, special permit, certificate of approval, or*

1 *administrator certificate, issued under this chapter, or denying a*  
2 *transfer of a license pursuant to paragraph (2) of subdivision (c)*  
3 *of Section 1524, upon a finding of a violation of subdivision (i) of*  
4 *Section 11166 of the Penal Code.*

5 ~~SEC. 4.~~

6 SEC. 3. Section 10605.5 of the Welfare and Institutions Code  
7 is amended to read:

8 10605.5. (a) (1) The department, in consultation with counties  
9 and labor organizations, shall establish, no later than January 1,  
10 2016, a process to receive voluntary disclosures from social  
11 workers, if a social worker has reasonable cause to believe that a  
12 policy, procedure, or practice, related to the provision of child  
13 welfare services by a county child welfare agency, meets any of  
14 the following conditions:

15 (A) Endangers the health or well-being of a child or children.

16 (B) Is contrary to existing statute or regulation.

17 (C) Is contrary to public policy.

18 (2) Notwithstanding any other law, the department shall not  
19 disclose to any person or entity the identity of a social worker  
20 making a disclosure described in paragraph (1), unless (A) the  
21 social worker has consented to the disclosure or (B) there is an  
22 immediate risk to the health and safety of a child.

23 (b) The department shall make available a description of the  
24 process established pursuant to subdivision (a) to counties and  
25 labor organizations.

26 (c) For purposes of this section, “county child welfare agency”  
27 includes a county welfare department, child welfare department,  
28 and any other county agency that employs social workers and is  
29 responsible for the placement and supervision of children and  
30 youth in foster care, including department social workers contracted  
31 by counties to perform direct adoption services.

32 (d) (1) No later than January 1, 2018, the department shall  
33 report to the Legislature only the following information:

34 (A) The total number of relevant disclosures received from  
35 social workers, including the month and year the disclosure was  
36 received.

37 (B) A summary description of both of the following:

38 (i) The issues raised in the disclosures received from a social  
39 worker.



1 (ii) The actions taken by the department in response to the  
2 disclosures.

3 (2) No later than January 1, 2018, the department shall post on  
4 its Internet Web site the information described in paragraph (1).

5 (3) The report required pursuant to paragraph (1) shall be  
6 submitted in compliance with Section 9795 of the Government  
7 Code.

8 (e) (1) Effective January 1, 2018, all of the duties imposed on  
9 the department pursuant to subdivisions (a) and (b) shall apply  
10 with respect to the receipt of voluntary disclosures from social  
11 workers employed at a foster family agency, as defined in Section  
12 1502 of the Health and Safety Code, including, but not limited to,  
13 disclosures from social workers who have reasonable cause to  
14 believe that a policy, procedure, or practice violates paragraph (1)  
15 or (2) of subdivision (i) of Section 11166 of the Penal Code.

16 (2) No later than July 1, 2019, the department shall report to  
17 the Legislature only the following information:

18 (A) The total number of relevant disclosures received from  
19 social workers employed at foster family agencies, including the  
20 month and year the disclosure was received.

21 (B) A summary description of both of the following:

22 (i) The issues raised in the disclosures received from a social  
23 worker.

24 (ii) The actions taken by the department in response to the  
25 disclosures.

26 (3) No later than July 1, 2019, the department shall post on its  
27 Internet Web site the information described in paragraph (1).

28 (4) The report required pursuant to paragraph (2) shall be  
29 submitted in compliance with Section 9795 of the Government  
30 Code.